

TO: Honorable Robert Griffin, Speaker of the Missouri House of Representatives

FROM: Representative Claire McCaskill, Chairman of House Interim Committee to Study District Attorney System in Missouri

DATE: January 4, 1987

RE: Interim Committee Findings

- 1) The Committee held two hearings: September 4, 1986, Lake Ozark; October 15, 1986, County Courthouse, Kansas City, Missouri.
- 2) Approximately 80 prosecuting attorneys, the majority of which were 3rd class county prosecutors appeared and many testified at the September 4, 1986, hearing. Approximately 25 appeared and testified at the October 15, 1986, hearing.
- 3) The testimony was as follows:
 - a) Joe Moseley, prosecuting attorney, Boone County appeared and testified on behalf of the full-time, non-charter, first and second class counties (Boone, Buchanan, Clay, Jefferson, Greene, Platte, St. Charles.) This group is in favor of the District Attorney system because they are full-time by law. Each office has full-time assistant, investigators, and up to twelve clerical staff. Those prosecutors carry heavy case loads and feel they are very much under-paid. The salaries range from \$38,000.00 to \$46,000.00. They feel they should be equal to a circuit judge. They would like to have a retirement plan.
 - b) The eleven second class counties which are part-time (Cass, Cole, Callaway, Johnson, Saline, Lafayette, Jasper, St. Francois, Franklin, Cape Girardeau, Pettis) would like to remain in that status.
 - c) The ninety-four third class counties and one fourth class county all want the system to remain a county prosecuting system. The prosecutors in these counties feel they are as professional as the urban counterparts. They point out that they do not have the heavy felony case load (see attachment A) and there are few homicides and other violent crimes. They make the case that they have to be proficient in citizen complaints, bad checks, child support, representing county government, stealing, burglary, DWI's, and traffic. Many stated that when

there is a violent crime or difficult crime such as arson they do not hesitate to seek assistance provided through the Missouri Office of Prosecution Services and the Attorney General's office. In 1985, MOPS provided thirty-two special prosecutors and in 1986 forty-three with several still pending. The Attorney General has eleven ongoing first degree murders and numerous other cases. All special prosecutors are very experienced trial attorneys. It is a cost efficient, effective, and working system.

The third class prosecutors feel a county attorney is needed because they know the local problems and are attuned to the needs of the community.

The prosecutors pointed out that the county system costs less than a District Attorney system.

The prosecutors stressed that they did not want large pay raises, many stated they were satisfied with their present salary. Most simply wanted more staff (secretarial, investigators) rather than increased salary.

Several third class counties are larger in population and assessed valuation than some second class counties (Sunklin, Pemiscot, Newton, Audrain, Marion) and there is a salary discrepancy in these instances. Third class counties range in population from 3000 (Worth) to 40,000 (Newton). The salary in Worth is \$24,000 and the salary in Newton is \$31,000. These inequities need to be addressed.

Committee Findings

- 1) The full-time first and second class prosecuting are underpaid but their counties can afford the increased pay. The support for a district attorney system by the six or so full-time, non-chartered first and second class counties appears to be based only on salary considerations.
- 2) Many third class prosecuting attorneys with small populations and no interstate highways are satisfied with the status quo and require no increased salary.
- 3) Assistance in major felonies is readily available through Missouri Office of Prosecution Services and the Attorney General's office. The cost is much less than setting upon third level such as a District Attorney system.

- 4) Funding the DA system would be very difficult. The state may not take the prosecuting attorney fees from the county because of Hancock. The statutory duties consist of: citizens' complaints, child support, delinquent taxes, victim/assistance, representing county government, defending county officials in civil suits (Section 1983 U.S.C.A.), bad checks, restitution, and traffic. This takes up 90% of the third class county prosecutor's time. Major felonies are but a small part of the work load. It was the consensus, considering all the information submitted to the committee, that many of these duties would necessitate an assistant prosecutor in every county under a DA system. The result would be merely a new "Layer" of state employees ostensibly to handle the small number of felony cases.
- 5) In essence there is no support for a District Attorney system in Missouri. A recent survey completed by the Missouri Association of Counties indicated that more than 80% of the county commissions wanted to retain the county prosecuting attorney system.
- 6) The District Attorney system would only add another level of bureaucracy and it is perceived it would not be efficient or cost effective. The reasons: the felony case load is not present in rural areas; it would not affect the larger jurisdictions where 80% are committed; funding would be virtually impossible in a state already with fiscal problems.

Enclosures

Claire McCaskill, Chairman

Mark Youngdahl

Jeff Schaeperkoetter

Steve Danner

Jim Talent